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EXAMINER

BATURAY, ALICIA

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/772,223	Applicant(s) ISHII ET AL.	
	Examiner Alicia Baturay	Art Unit 2155	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>02032004, 10022006, 01302007</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-12 are presented for examination.

Claim Objections

2. Claim 12 is objected to because of the following informality: the claim does not end with a period. Each claim begins with a capital letter and ends with a period. Periods may not be used elsewhere in the claims except for abbreviations. *See Fressola v. Manbeck, 36 USPQ2d 1211 (D.D.C. 1995)*. See MPEP § 608.01(m). Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

4. Claims 1-12 are rejected under 35 U.S.C. 102(a) as being anticipated by Nguyen (WO 02/29427).

5. With respect to claim 1, Nguyen teaches a communication network system comprising: a resource managing unit for managing statuses of node resources in a network and statuses of link resources in said network, a node function location controlling unit for relocating functions of functional nodes and data used for the functions in said network into an

optimum condition, in accordance with said statuses of node resources which are managed by said resource managing unit, in response to an instruction of relocation, a path structure controlling unit for restructuring a structure of paths in said network into an optimum condition, in accordance with said statuses of link resources which are managed by said resource managing unit, in response to an instruction of restructuring, and an adaptive control determining unit for determining whether it is necessary to transmit said instruction of relocation to said node function location controlling unit or to transmit said instruction of restructuring to said path structure controlling unit on the basis of said statuses of node resources and said statuses of link resources which are managed by said resource managing unit, and transmitting said instruction of relocation when the transmission of said instruction of relocation is determined to be necessary or transmitting said instruction of restructuring when the transmission of said instruction of restructuring is determined to be necessary.

6. With respect to claim 2, Nguyen teaches the invention described in claim 1, including a communication network system, further comprising:

Service controlling devices each of which is one of said functional nodes and is capable of changing its own functions and data used for the functions, and comprises resources for providing communication services or data transfer services, data transferring devices each of which is one of said functional nodes and is capable of changing its own functions, data used for the functions and connection statuses of paths for data communications, and comprises resources for providing communication services or data transfer services (Nguyen, page 18, line 19 – page 20, line 11), and a network structure controlling device which is connected to

said service controlling devices and to said data transferring devices, wherein, said network structure controlling device comprises said resource managing unit, said node function location controlling unit, said path structure controlling unit and said adaptive control determining unit (Nguyen, page 26, lines 1-19).

5. With respect to claim 3, Nguyen teaches the invention described in claim 1, including a communication network system, further comprising:

Service controlling devices each of which is one of said functional nodes and is capable of changing its own functions and data used for the functions, and comprises resources for providing communication services or data transfer services, data transferring devices each of which is one of said functional nodes and is capable of changing its own functions, data used for the functions and connection statuses of paths for data communications, and comprises resources for providing communication services or data transfer services (Nguyen, page 18, line 19 – page 20, line 11), network structure controlling devices which are distributed in said network, each of which comprises said node function location controlling unit, said path structure controlling unit and said adaptive control determining unit (Nguyen, page 26, lines 1-19), and a lock controlling unit for controlling locks of resources, when each of the resources should be controlled by only one of said network structure controlling devices to achieve the relocation or the restructuring, for avoiding each of the resources being controlled by more than one of said network structure controlling devices (Nguyen, page 26, lines 1-19).

6. With respect to claim 9, Nguyen teaches a network resource status managing device comprising:

A resource status collecting unit for collecting data on statuses of node resources and data on statuses of link resources in a network through said network, a network resource status storing unit for storing said data on statuses of node resources and said data on statuses of link resources which are collected by said resource status collecting unit (Nguyen, Fig. 3, elements 220 and 250; page 18, line 19 – page 19, line 11), and a lock controlling unit for controlling a lock of a certain resource, when said certain resource is controlled by a certain network structure controlling device to achieve a relocation of functions of nodes and data used for the functions in said network or to achieve a restructuring of a structure of paths in said network, for avoiding said certain resource being controlled by another network structure controlling device, in response to a request for a lock control from said certain network structure controlling device (Nguyen, page 26, lines 1-19).

7. With respect to claim 10, Nguyen teaches an adaptive control method comprising:

A node resource status monitoring step for a service controlling device and a data transferring device, which are included in a communication network system, to monitor statuses of node resources, which are resources for providing communication services or data transfer services, and to transmit data indicating said statuses of node resources, a link resource status monitoring step for said data transferring device to monitor statuses of link resources, which are resources for providing data transfer services, and to transmit data indicating said statuses of link resources, a network resource status collecting step for a

network resource status managing device in said communication network system to receive and store said data indicating said statuses of node resources transmitted in said node resource status monitoring step and to receive and store said data indicating said statuses of link resources transmitted in said link resource status monitoring step (Nguyen, Fig. 3, elements 220 and 250; page 18, line 19 – page 19, line 11), an adaptive control determining step for a network structure controlling device in said communication network system to determine whether it is necessary to relocate functions and data for the functions of said service controlling device or of said data transferring device, or to determine whether it is necessary to restructure paths connected to said data transferring device, on the basis of data indicating said statuses of node resources and data indicating said statuses of link resources which are stored in said network resource status managing device (Nguyen, page 20, line 18 – page 21, line 13), or in accordance with a request for an adaptive control of said node resources or said link resources from an external device (Nguyen, page 26, line 20 - page 27, line 15), a planning step where said network structure controlling device makes a plan of relocation of the functions and the data for the functions so that said node resources and said link resources can be used in an optimum condition, and transmits an instruction to instruct said relocation of the functions and the data for the functions to said service controlling device or to said data transferring device, when it is determined to be necessary to relocate the functions and the data for the functions in said adaptive control determining step, or, said network structure controlling device makes a plan of restructuring of the paths so that said node resources and said link resources can be used in an optimum condition, and transmits an instruction to instruct said restructuring of the paths to said service controlling device or to

said data transferring device, when it is determined to be necessary to restructure the paths in said adaptive control determining step (Nguyen, page 22, line 3 – page 24, line 14), and an optimizing step where said service controlling device or said data transferring device changes its functions and data for the functions in accordance with said instruction to instruct said relocation of the functions and the data for the functions, or, said data transferring device changes its paths in accordance with said instruction to instruct said restructuring of the paths (Nguyen, page 24, line 16 – page 26, line 19).

8. With respect to claim 11, Nguyen teaches the invention described in claim 10, including an adaptive control method wherein:

In said planning step, said network structure controlling device further transmits, to said network resource status managing device, a request for a lock control for avoiding said node resources and said link resources, which are controlled by said network structure controlling device after the relocation, being controlled by another network structure controlling device, when it is determined to be necessary to relocate the functions and the data for the functions in said adaptive control determining step, or, said network structure controlling device further transmits, to said network resource status managing device, a request for a lock control for avoiding said node resources and said link resources, which are controlled by said network structure controlling device after the restructuring, being controlled by another network structure controlling device, when it is determined to be necessary to restructure the paths in said adaptive control determining step, and said adaptive control method further comprises a lock controlling step for said network resource status managing device to receive the request

for a lock control which is transmitted in said planning step, and to control locks of said node resources and said link resources in accordance with the request for a lock control (Nguyen, page 26, lines 1-19).

9. With respect to claim 12, Nguyen teaches the invention described in claim 11, including an adaptive control method wherein:

In said planning step, said network structure controlling device makes an optimum plan of relocation of the functions and the data for the functions or an optimum plan of restructuring of the paths, on the basis of data on a draft plan of relocation of the functions and the data for the functions and data on a draft plan of restructuring of the paths (Nguyen, page 24, line 16 – page 26, line 19).

10. Claims 4-8 do not teach or define any new limitations above claims 1 and 9-12 and therefore are rejected for similar reasons.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia Baturay whose telephone number is (571) 272-3981. The examiner can normally be reached at 7:30am - 5pm, Monday - Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar can be reached on (571) 272-4006. The fax number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Alicia Baturay
March 26, 2008

/saleh najjar/

Supervisory Patent Examiner, Art Unit 2155